

## Eisenberg, Mindy

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**From:** Bowles, Jack  
**Sent:** Tuesday, October 13, 2015 12:22 PM  
**To:** Eisenberg, Mindy  
**Subject:** FW: Statement on Clean Water Rule Litigation

Mindy,

Re: the FOIA.

Here is the statement I sent around, with the Regions copied. Apologies for the delay.

Best,

Jack

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**From:** Bowles, Jack  
**Sent:** Friday, August 28, 2015 10:41 AM  
**Cc:** Rupp, Mark; Barbery, Andrea; Cook-Shyovitz, Becky; Eargle, Frances; Arnita Hannon; Andrew Hanson; Loop, Travis; Altieri, Sonia  
**Subject:** Statement on Clean Water Rule Litigation

Dear State & Local Colleagues:

Good morning to everyone. See below a statement regarding recent court rulings on the Clean Water Rule. Please forward as you see fit to interested state & local officials. Our website, linked below, has much more information on implementation of the Clean Water Rule. If you or your members have any questions, please contact any of us here at EPA and we are glad to assist.

Best Regards,

*Jack Bowles*

Director of State & Local Relations

U.S. EPA

202-564-3657

### CWR LITIGATION STATEMENT

The Clean Water Rule is fundamental to protecting and restoring the nation's water resources that are vital for our health, environment, and economy. EPA and the Department of the Army have been preparing to implement the rule on the effective date of August 28.

Since publication of the rule in the *Federal Register*, numerous lawsuits were filed challenging the regulation, and several parties sought preliminary injunctions to delay implementation of the rule. This week, United States District Courts in Georgia and West Virginia agreed with the Agencies that legal challenges to the Rule could only be brought in

the United States Court of Appeals for the 6<sup>th</sup> Circuit and therefore denied the requests for preliminary injunction. On August 27, the District Court for North Dakota found that it had jurisdiction and granted the request of a number of States and issued a decision preliminarily enjoining the Clean Water Rule.

Under the order issued by the District Court of North Dakota, the parties that obtained the preliminary injunction are not subject to the new rule, and instead continue to be subject to the prior regulation. In light of the order, EPA and the Army Corps of Engineers will continue to implement the prior regulation in the following States: Alaska, Arizona, Arkansas, Colorado, Idaho, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, and Wyoming.

In all other respects, the rule is effective on August 28. The Agencies are evaluating these orders and considering next steps in the litigation.

As EPA and the Army Corps of Engineers implement the Clean Water Rule, the agencies are taking additional steps to increase transparency, respond to information requests, and streamline permitting. Read more:

<https://blog.epa.gov/blog/2015/07/implementation-of-the-clean-water-rule/>

Protection for about 60 percent of the nation's streams and millions of acres of wetlands has been confusing and complex as the result of Supreme Court decisions in 2001 and 2006. The Clean Water Rule protects streams and wetlands that are scientifically shown to have the greatest impact on downstream water quality and form the foundation of our nation's water resources. EPA and the U.S. Army are ensuring that waters protected under the Clean Water Act are more precisely defined, more predictable, easier for businesses and industry to understand, and consistent with the law and the latest science.

Clean water is vital to our health, communities, and economy. We need clean water upstream to have healthy communities downstream. The health of rivers, lakes, bays, and coastal waters depend on the streams and wetlands where they begin. Streams and wetlands provide many benefits to communities by trapping floodwaters, recharging groundwater supplies, filtering pollution, and providing habitat for fish and wildlife. People depend on clean water for their health: About 117 million Americans -- one in three people -- get drinking water from streams that were vulnerable to pollution before the Clean Water Rule. Our cherished way of life depends on clean water: healthy ecosystems provide wildlife habitat and places to fish, paddle, surf, and swim. Our economy depends on clean water: manufacturing, farming, tourism, recreation, energy production, and other economic sectors need clean water to function and flourish.

Additional information is at [www.epa.gov/cleanwaterrule](http://www.epa.gov/cleanwaterrule)